

LABOUR DEPARTMENT

The 14th September, 1982

No. 9(1)82-6Lab./8485.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Oniel Industries Pvt. Ltd., 58, NIT, Faridabad:—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 182/1982

between

SHRI KISHAN SINGH, WORKMAN AND THE MANAGEMENT OF M/S ONIEL
INDUSTRIES PVT. LTD., 58 N. I. T., FARIDABAD

Present—

Shri Satish Ahuja, for the management.

None, for the workman

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Kishan Singh and the management of M/s Oniel Industries Pvt. Ltd., 58, N. I. T. Faridabad, by order No. ID/FD/105/82/23008, dated 20th May, 1982 to this Tribunal for adjudication in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Kishan Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties. The management was present but the workman did not appear despite service. The representative of the management stated that the workman is still in the service of management. Therefore, the case was fixed for attendance of the workman. But on the date fixed, the workman was not present and the case was ordered to be dismissed for non-prosecution by the workman. Therefore, I dismiss the case for non-prosecution by the workman.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

Dated the 9th August, 1982.

Endorsement No. 873, dated 10th August, 1982.

Forwarded (four copies), to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana,
Faridabad.

The 17th September, 1982

No. 9(1)82-6Lab./8940.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following

award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of The Haryana Dairy Development Co-operative Federation Limited, Chandigarh.

**BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD**

Reference No. 305 of 1981

between

**SHRI TARA CHAND, WORKMAN AND THE MANAGEMENT OF THE HARYANA
DAIRY DEVELOPMENT CO-OPERATIVE FEDERATION LIMITED, CHANDIGARH.**

Present—

Shri Tara Chand Gupta, for the workman.

Shri C. B. Sharma, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Tara Chand and the management of The Haryana Dairy Development Cooperative Federation Limited, Chandigarh, by order No. ID/CHD/52/81/45747, dated 7th September, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 :—

Whether the termination of service of Shri Tara Chand, was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The issue under reference was put under trial by my order dated 8th March 1981. The management examined Shri Kuljeet Singh, Milk Procurement Officer as MW-1 and the workman examined himself as his own witness. The argument were heard.

MW-1 deposed that the service of the workman was terminated because his work was not satisfactory. Documents were Ex. M-1 to M-9. He remained absent some times. He was afforded opportunity to improve his work but he did not do so. His service was terminated,—*vide* Clause-2 of the appointment letter. In cross examination he admitted that the workman as a regular employee. No domestic enquiry was held nor he was paid any compensation.

The concerned workman deposed, that he was appointed on 14-2-1978 as dairy extension worker. He was issued appointment Letter Ex. M-5 and termination Ex. M-9. No enquiry was held against him. He was not paid any compensation. In cross examination, he replied that he was transferred to Rohtak, Sirsa and Hissar. He denied the suggestion that his explanation was called and he remained absent from duty. He also denied that his work was not satisfactory.

According to the appointment letter, the workman was appointed as Dairy Extension Worker on probation for one year,—*vide* order dated 1st February, 1978. According to the pleading his service was terminated,—*vide* order Ex. M-9, dated 16th September, 1980. Thus the workman had more than two years service. Dismissal letter states "The Services of Shri Tara Chand D.W.S. posted under project officer, Sirsa are hereby terminated under clause 2 of the appointment letter with immediate effect. He will be paid salary of one month in lieu of notice period." But the management in its pleadings contended that the work and conduct of the petitioner were not satisfactory and he was guilty of indiscipline, misbehaviour, insubordination, dishonesty of misconduct. It was admitted that no chargesheet was framed against him nor any enquiry was held into his conduct. It was also not the case of the management that his service was terminated after following the principles of natural justice.

The termination order is a termination simplicitor. The management invoked clause-2 which is as under.—

"The Federation shall any time during the currency of his service be entitled to terminate his service without notice, if the Federation find that he will fully disobeyed or failed to perform or comply with any lawful instructions given to him or failed to observe proper discipline or committed breach of any of the conditions and stipulations of the Service Rules or is found guilty of misconduct including neglect of duty, insobriety, dishonesty, insubordination fraud or any other offence. Normally, however, after the successful completions of probationary period the appointment will be termination after one months notice on either side or one months salary in lieu thereof."

The management terminated his service on payment of one month salary in lieu of notice period. Therefore, it was not the management's case that he was guilty of any misconduct which the management tried to prove while leading its evidence. It was held in 1981 II LLJ page 174 that where the services of the employees were terminated by a notice which contained no allegation against them. The employee could not have been allowed by Labour Court or Industrial Tribunal to justify termination on a ground on which it has never been based. The management, in this case, never based the termination of misconduct. The termination amounts to retrenchments as given in Section 200 of the Industrial Disputes Act, 1947. The procedure of payment of compensation was not followed in the case. It was held in *Beco Engineering Company V/s State of Punjab* by hon'ble High Court, Punjab and Haryana 1981 (59) F. J. R. 121, "It is obligatory on the employer to comply with the provisions of Section 25 F of the Industrial Disputes Act, 1947 when the service of the workmen are terminated. The employer cannot taken advantage of clause in the appointment letter that the service of the workman could be terminated by giving him one month notice or one month's pay in lieu of, in view of the proviso of Section. Therefore, non-compliance of section-25-F was fatal to the termination order and it will be treated as non-est and the workman considered in service of the management in view of my above discussion. I find that his termination order was not in order. The workman was entitled to re-instatement with full back wages. I award accordingly.

Dated, the 10th August, 1982.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana.
Faridabad.

Endorsement No. 916, dated 25th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under Section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,

Industrial Tribunal, Haryana
Faridabad.

The 1st October, 1982

No. 9(1)82-PV-6Lab/9166.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s. Nav Jay Bee Industries/Works Court Road, Chhottee Line, Jagadhri.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 502 of 1980

between

SHRI RADHEY SHAM PARSHAD, WORKMAN AND THE RESPONDENT MANAGEMENT
OF M/S. NAV JAY BEE INDUSTRIES/WORKS, COURT ROAD, CHHOTTEE
LINE, JAGADHRI

Present—

Shri Surrinder Kumar, for the workman.

Shri Subhash Chander, for the Respondent.

AWARD

This reference No. 502 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID.YMN/182/80/54906, dated 27th October, 1980 under section 10(i)(c) of the Industrial disputes Act, 1947 existing between Shri Radhey Sham Parshad and the respondent management of M/s. Nav Jay Bee Industries/Works, Court Road, Chhottee Line, Jagadhri. The term of the reference was:—

Whether the termination of service of Shri Radhey Sham Parshad was justified and in order? If not to what relief is he entitled?

Notices were issued to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to the demand notice is that he was appointed on 1st January, 1979 and terminated on 19th January, 1980 without any reason or rhyme, so he is entitled for the reinstatement with continuity of service and back wages.

The case of the respondent according to the written statement is that there exists no relationship of master and servant between the parties. The applicant was never employed by the respondent. The respondent establishment started functioning in June, 1979 where the applicant has stated he started work in January, 1979 so there is no relationship of master and servant so the reference be rejected.

On the pleadings of the parties, following issues were framed :—

1. whether the relationship of master and servant exist between the parties? If not to what effect?
2. As per reference?

My findings on the issues are as under :—

Issue No. 1 :

The representative of the respondent argued on this issue that as stated by Shri Vijender Kumar Partner of the factory that in their record of attendance register and wages register there is no such name exist and the workman was never employed by the respondent. The factory started its functioning in June, 1979 and the statement of the workman that he was employed in the factory in January, 1979 cannot be believed. He further argued that the respondent has produced another witness to corroborate the witness Shri Vijender Kumar partner of the factory and Vinod Kumar part-time clerk of the factory deposed as MW-2 that he is working since June, 1979 as part-time clerk in the factory and he has not seen such person like Shri Radhey Shyam in the factory and his name is not mentioned in the register of wages and attendance which he has brought in the court. So there is no relationship of master and servant between the parties and the workman was never employed by the respondent.

The representative of the workman argued on this issue that as stated by Shri Mahabir Parshad Ex-co-workman; as WW-1, Shri Radhey Shyam joined his service with the respondent factory on 1st January, 1979 and worked upto 19th January, 1980 more than one year as polisher. The respondent used to mark their presence in a small copy and when they asked the respondent to mark their presence in the proper attendance register the respondent turned out the workman without any reason. He further argued that another co-workman Shri Ramjan came to depose in the court in favour of the workman as WW-3 who has stated that the workman joined his service on 1st January, 1979 and worked up to 19th January, 1980 as polisher and when they asked the respondent to mark their attendance in the proper attendance Register and ESI cards be given they turned out the workman without any reason. The workman also stated in his statement as WW-2 that he joined the service of the workman on 1st January, 1979 and terminated on 19th January, 1980 when he asked the respondent for the ESI card and proper attendance. The workman representative further argued that the respondent produced no document in the court to prove this fact that he was never in the employment of the respondent and it is a practice in Yamuna Nagar and Jagadhri that the factory owner employs the workman in the same way and turned out whenever they like so in the same way the workman was terminated. To prove the relationship two other co-workmen came in the court and depose that he used to work in the factory which cannot be dis-believed.

After hearing the arguments of both the parties, and going through the file, I am of the view that the respondent has failed to prove that the workman was never employed by the respondent. The statement of two other co-workmen cannot be disbelieved and it creates doubts in my mind and the benefits of doubt should be given to the workman. The respondent has simply stated in the court that there is no relationship of master and servant between the parties and produced no such record to prove this fact. So the issue is decided in favour of the workman and against the respondent.

Issue No. 2

After deciding issue No. 1 in favour of the workman there is no need to discuss more on this issue as first issue was the main issue in this case and the parties stressed the first issue. The workman was an employee of the respondent and he was terminated without any justification. So order of termination is without justification and not in order. As the workman has completed one year of service and workman more than 240 days so he cannot be terminated in this way. So he is entitled for his reinstatement with continuity of service but without wages as the workman has not stated anywhere in the demand notice or in his statement about his salary which he was drawing per

month without which I cannot order for back wages. He has simply asked for the back wages and not mentioned the salary he used to get from the respondent. so I cannot order for back wages.

This be read in answer to this reference.

HARI SINGH KAUSHIK,

Dated the 25th August, 1982.

Presiding Officer,
Labour Court, Haryana, Faridabad.

Endorsement No. 1935, dated the 1st September, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court, Haryana, Faridabad.

No. 9(1)82-PV-6 Lab./9168.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workmen and the management of M/s Hindustan Machine Tools, Pinjore (Ambala).

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT,
HARYANA, FARIDABAD

Reference No. 13 of 1979

(Reference No. 327-Fbd of 1981)

between

SHRI V. K. SOOD, WORKMAN AND THE RESPONDENT MANAGEMENT OF M/S
HINDUSTAN MACHINE TOOLS, LTD., PINJORE (AMBALA)

Present : Shri Madhu Sudan Saran along with the workman.

Shri R. L. Gupta, for the respondent-management.

AWARD

This reference No. 13 of 1979 (Reference No. 327-Fbd. of 1981) has been referred to the Labour Court, Rohtak by the Hon'ble Governor of Haryana,—vide his order No. ID/Ymn/98-78/1081, dated 8th January, 1979, under section 10(i) (c) of the Industrial Disputes Act, 1947 existing between Shri V. K. Sood, workman and the respondent-management of M/s Hindustan Machine Tools, Ltd., Pinjore (Ambala). The terms of the reference was:—

Whether the termination of services of Shri V. K. Sood was justified and in order? If not, to what relief is he entitled?

The Labour Court, Rohtak issued notices to the parties on receiving this reference order. The parties appeared and filed their pleadings. The case of the workman according to the demand notice and claim statement is that he joined the services 10 years ago as fitter and illegally terminated on 10th October, 1978. At the time of termination he was getting Rs. 340/- per month. The workman had enmity with Shri Raghubir Singh, who got created a forged theft case against the workman and the workman was forced to sign down the resignation under the threat and duress with the help of police. No charge-sheet or enquiry was conducted against the workman and the termination was illegal and the workman is entitled for the reinstatement with full back wages and continuity of service.

The case of the respondent according to the written statement is that on 10th October, 1978 the workman intercepted by Shri V. K. Gupta, Security Inspector at 6.00 p.m. during lunch break of 'B' shift and six beval gears were found from different pockets. The workman has no explanation to offer. The police was immediately called on the spot and on interrogation by the police, 6 more beval

gears were recovered by the police at a place pointed out by the workman. He made a confession statement in his own handwriting and also tendered his resignation which was accepted on 12th October, 1978 and was conveyed on the same day by registered post which was received by the workman on 13th October, 1978. The workman sent a letter to the respondent on 15th October, 1978 taking a false and irresponsible stand that the resignation was taken under duress and threat. The management replied the same on 30th October, 1978. There is no merit in the claim and the reference may be rejected.

On the pleadings of the parties, the following issues are framed :—

1. Whether the termination of service of the workman was a result of resignation tendered on 10th October, 1978? If so, to what effect?
2. Whether the resignation was obtained from the workman under duress or compulsion and the same was not voluntarily and the management accepted the resignation before its withdrawal? If so, to what effect?

This case was transferred to me after recording the evidence of the management and I recorded the evidence of the workman. The case was transferred,—*vide* Secretary to Govt., Haryana, Labour and Employment Department, Chandigarh Order No. 1(79)80-1 Lab, dated 20th October, 1981. My findings on the issues are as under :—

Issue Nos. 1 and 2 :

Issue No. 1 and 2 are inter-connected issues and the parties argued both the issues together. The representative of the respondent argued on this issue that the workman was working with the respondent from the last 10 years and on 10th October, 1978 he was caught red handed while taking away the bevel gears manufactured by the respondent and when caught he was interrogated and in the interrogation he admitted the theft and being ashamed of the same submitted his resignation on the same day which was accepted by the respondent and communicated to the workman. After receiving communication of the acceptance Ex.W. 10. The workman represented that the resignation was taken under duress and coercion,—*vide* Ex. W-3 and subsequently gave the demand notice alleging termination attributing motives upon the management and the said demand notice has been referred for adjudication. The workman was caught red handed by Shri V. K. Gupta who has come in the Court as MW-1 who has stated that on 10th October, 1978 at about 6.30 p.m. when he was on duty he suspected the workman and Shri Mangat Ram, workman was also coming with the workman. He caught hold the workman and took him to the control room. Shri Partap Singh, Security Hawaldar was also present there. The witness asked the workman to disclose the goods if any in his possession then the workman disclosed and brought out six bevel gears, two each in the pocket of pant and two from Baniyan then the witness referred the matter to the police and the section incharge Shri Raghubir Singh and police came and investigated the matter. The claimant admitted the fact of theft before the police also and admitted previous theft and disclosed before the witness where six bevel gears were received. The claimant admitted this fact in writing and wrote Ex.W-8. The witness who were present at the time also signed Ex.W-8 in token of their presence. Then he wrote his resignation letter copy Ex.W-9 in the presence of all. There was no pressure threat or duress on the claimant at the time of writing Ex.W-9 and there was no previous enmity with the staff. He further argued that other persons were present at the time of disclosure and search. Shri Chaman Lal, also came in the witness as MW-2 who has corroborated the statement of Shri V. K. Gupta and stated that when he was coming back from the lunch he saw the workman taken by Shri V. K. Gupta and Mangat Ram. They took the claimant in the control room and was asked to deliver the theft goods which are in his possession. The claimant gave six bevel gears in his presence and thereafter Shri Raghubir Singh, Foreman and Security Officer Shri Saini and police came in the control room. The resignation was also written in his presence. He further argued that the respondent produced Shri Raghubir Singh, Incharge Internal Transport as MW-3, who has also corroborated the story of theft and the resignation of the claimant. He further argued that the workman in his statement as WW-1 has said nothing about the theft and duress with the workman. The workman gave in writing Ex.W-8 and W-9 in the presence of witness. His resignation was accepted by the respondent and the workman was informed about the acceptance of the resignation,—*vide* letter Ex. W-10. The workman sent a letter to the respondent, dated 14th October, 1978 for obtaining forceful resignation of the workman. The resignation was given by the workman of his free will in the presence of 5 or 6 persons because the workman was ashamed of this act. The respondent replied the letter of the workman, dated 14th October, 1978,—*vide* letter, dated 30th October, 1978 as it is after thought. The case was registered against the workman in which the management was not the party. The State was the party and the police has to prove the evidence in their own manner and could also hob nob with the accused by not putting the case properly and the workman was acquitted by the court. But this Hon'ble Court is not bound by the decision of the Criminal Court and has to come to its own findings on the basis of material evidence produced before it. There is strong evidence to prove that the workman indulged in theft of costly material of the management and was caught red handed. The workman has not given any evidence contra.

The representative of the workman argued on this issue that the workman was employed on 1st February, 1967 and on 10th October, 1978 the management planned of false case against him and lodged a F.I.R. which is Ex.W-1, the management and police gave a beating in the security office. It was done because the workman has personal enmity with Shri Raghbir Singh and Security Officer. The Criminal proceedings were initiated against the workman which was tried by Additional Chief Judicial Magistrate, Ambala, who acquitted the workman. The order of acquittal is W-2. He further argued as stated by WW-1 he was arrested on 10th October, 1978 and bail out on 11th October, 1978. He complained to the General Manager of the false case which is Ex.W-3. The complaints were also sent to the other concerned officers which are Ex.W-4 to W-7. He further stated in his statement that Ex.W-8 and W-9 were got executed by him under pressure and duress and after the beating and not by free will. He further argued that for the threat and duress the workman has produced Shri Sikandar Lal, co-workman of the factory who has stated that on 10th October, 1978. He saw the workman with Shri V. K. Gupta and Security Hawaldar who were beating him and taking him to the control room. I went inside the control room after few minutes the police came there and other officials like Shri Raghbir Singh and Shri Saini came and they also gave the beating to the workman and they got written Ex.W-8 and W-9 on threat. He further argued that Shri V. K. Gupta in his cross examination has stated that he joined the service when the workman was already working in the factory and the workman was never caught red handed in the factory before this incident. He has also admitted this fact in the cross examination that there were two constables and one head constable at the time of writing the resignation. This shows that the resignation got written under a duress and threat of the police. The workman wrote this resignation as he has admitted in his statement to save his skin from the police authorities. He further argued that as discussed by the Judicial Magistrate in his order to acquit the workman which is Ex.W-2 that it is improbable to recover six bevel gears weighing about 1 K.G. each and the person could not possibly carry two bevel gears in each pocket of his pant and other two bevel gears in the pocket of his shirt without being noticed, and the learned court has not believed the theft of bevel gears and acquitted the accused. He further argued that as admitted by the respondent witness they gave their statement before the Judicial Magistrate in the criminal case. The statement of the witness were not believed and the workman was acquitted. The persons who have stated before the Judicial Magistrate are the witnesses in this case and there are contradiction before the Judicial Magistrate and in this court and these witnesses cannot be believed. The workman was working in the factory for the last 10 years and there was no complaint of any kind against the workman and the person cannot become thief in one day. Such like habits formed in childhood and not in this age. The workman worked satisfactorily throughout the service and due to enmity Shri Raghbir Singh planned these things otherwise no body can take such a big thing in the pocket and in the presence of security staff. He further argued that about other six gears which the workman allegedly stolen and kept in the JHARIES near cycle stand was not taken in this court. There is no evidence about that six gears which are allegedly stolen and found in the search. It shows that the respondent wanted to turn out the workman without any reasons. Before the Judicial Magistrate there was a case of 12 bevel gears stolen by the workman and in this court they have only the case of six bevel gears which they alleged taken in their possession in the search. So the resignation was got written by the respondent after giving a beating and under threat and duress and coercion and there was no alternative with the workman.

After hearing the arguments of both the sides and going through the file I am of the view that the witness of the respondent cannot be believed that the workman gave his resignation of his own free will because no body gave resignation after a long service in such a way, without any threat or coercion. The question of resignation was raised by the respondent. He was asked to write down the resignation and the statement, otherwise the workman would not have written this resignation of his own will. Why the respondent asked the resignation of the workman they could only got the admission of the theft and on that they made the complaint to the police of the theft. The question of resignation does not come in this procedure and when the workman wrote a letter to the respondent for forcefully taken the resignation the respondent should have considered it according to law which was not considered by the respondent. The statement of workman was supported and corroborated by other workman who stated that in his presence he was given beatings by the police and officer of the factory which cannot be dis-believed and resignation was taken under coercion and duress and not taken by the free will of the workman. The workman was terminated by accepting his resignation which was not taken by a free will of the workman, cannot be justified. So the termination of workman was not justified and the workman is entitled for reinstatement with continuity of service but not with back wages because the case has prolonged due to adjournments taken by the workman for his evidence and the respondent should not be burdened on the fault of the workman.

This be read in answer to this reference.

HARI SINGH KAUSHIK,

Dated the 27th August, 1982.

Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endorsement No. 1937, dated the 1st September, 1982.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

HARI SINGH KAUSHIK,

Presiding Officer,
Labour Court Haryana,
Faridabad.

The 6th October, 1982

No. 9(1)82-PV-6Lab/9238.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s (1) Shri Sarwan Singh Nazar, Contractor, Tractor Transport Escort Ltd., 18/4, Mathura Road, Faridabad, (2) Escorts Ltd., 18/4, Mathura Road, Faridabad.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 237 of 1982

between

THE WORKMEN AND THE MANAGEMENT OF M/S (1) SHRI SARWAN SINGH NAZAR,
CONTRACTOR TRACTOR TRANSPORT ESCORTS LTD., 18/4, MATHURA ROAD, FARIDABAD.
(2) ESCORTS LTD., 18/4, MATHURA ROAD, FARIDABAD.

Present:

Shri N. S. Ratra, for respondent No. 2.

Shri S.D. Mishra for the respondent No. 1.

Nemo for the workmen.

AWARD

The State Government of Haryana referred the following dispute between the management of M/s. Sarwan Singh Nazar, Contractor, Transport Escorts Ltd., 18/4, Mathura Road, Faridabad, (2) M/s. Escorts Ltd., 18/4, Mathura Road, Faridabad and its workmen by order No. ID/FD/280/82/28742, dated 25th June, 1982, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947:—

- (1) Whether all the tractor drivers should be insured under General Insurance Policy? If so, with what details?
- (2) Whether the driving work should be assigned to the members of the union only? If so, with what details?
- (3) Whether the tractor drivers should be granted driving allowance for Escorts Tractors @ 45 paise, Ford Tractor @ 40 paise, Eicher and Pitte Tractor @ 45 paise per K.M.? If so, with what details?
- (4) Whether the drivers should be paid return journey fare? If so, with what details?
- (5) Whether the minimum limits of drivers should be fixed 100 K.M.? If so, with what details?
- (6) Whether the drivers should be paid Rs. 27.50 paise per day in case of late/delayed delivery of tractors? If so, with what details?
- (7) Whether the drivers should be paid Rs. 15.50 paise per tractor while bringing out the tractor from factory? If so, with what details?
- (8) Whether one incharge should be deputed after 10 drivers? If so, with what details?

- (9) Whether the drivers should not be held responsible in case of any defect in the tractor during the course of journey ? If so, with what details ?
- (10) Whether the distribution of tractors should be equal amongst all the contractors ? If so, with what details ?
- (11) Whether the tractor of the contractors should be parked at one place ? If so, with what details ?
- (12) Whether the drivers should be paid medical expense in case they fall ill during the course of transit ? If so, with what details ?
- (13) Whether the drivers should be granted 90% of profit/saving in case a tractor is sent by towing another tractor ? If so, with what details ?
- (14) Whether the management should be directed not to send any tractor by rail or truck ? If so, with what details ?

Notices of the reference were sent to the parties. The management were present but the workmen did not appear despite service. Therefore, the case was ordered to be dismissed for non-prosecution by the workmen. I, therefore, dismiss the case for non-prosecution by the workmen.

Dated the 30th August, 1982.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 929, dated the 30th August, 1982

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947,

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

No. 9(1)-82-PV-6Lab./9245.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad, in respect of the dispute between the workman and the management of M/s Ambala Public Carriers Truck Operators Union, Ambala City.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 349/1982

between

SHRI HARBANS LAL WORKMAN AND THE MANAGEMENT OF M/S. AMBALA PUBLIC
CARRIERS TRUCK OPERATOR UNION, AMBALA CITY

Present :

Shri Rajeshwar Nath, for the workman.

Shri Janak Raj, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Harbans Lal and the management of M/s. Ambala Public Carriers Truck Operator Union, Ambala City

by order No. ID/AMB/141/81/54988, dated 6th November, 1981, to this Tribunal, for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947: —

Whether the termination of service of Shri Harbans Lal, was justified and in order ?
If not, to what relief is he entitled ?

Notices of the reference were sent to the parties. The workman was present but the management did not appear despite service. Therefore, the case was fixed for the *ex parte* evidence of the workman. On the last date of hearing, Shri Janak Raj, representative of the management made a statement that the workman had settled his dispute with the management and had received his full and final account from the management.

In view of the above, I pass my award that the dispute had been mutually settled by the parties and there nothing remained for adjudication.

Dated, the 30th August, 1982.

M.C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal Haryana,
Faridabad.

Endorsement No. 932, dated the 30th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-PV-6Lab./9246.— In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to published the following award of the Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s Suraj Lamp and Industries Pvt. Ltd. Plot No. 65-A, N.I.T., Faridabad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 254 of 1982

between

SHRI DAYA RAM, WORKMAN AND THE MANAGEMENT OF M/S. SURAJ LAMP AND
INDUSTRIES, PVT. LTD. PLOT NO. 65-A, N.I.T. FARIDABAD.

Present: —

Nemo, for the workman.

Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workmen Shri Daya Ram and the management of M/s. Suraj Lamp and Industries Pvt. Ltd, Plot No. 65/A, N.I.T. Faridabad, by order No. ID/FD/137/82/33964, dated 21st July, 1982 to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Dispute Act, 1947: —

Whether the termination of service of Shri Daya Ram was justified and in order ? If not, to what relief is he entitled ?

Notices of the reference were sent to the parties. But on the date fixed, none was present from both the sides despite service. Therefore, the case was ordered to be dismissed for non-prosecution by the parties. I, therefore, dismiss the case for non-prosecution by the parties.

Dated the 30th August, 1982.

M.C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 931, dated the 30th August, 1982

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82PV-6Lab/9247.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to published the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s. Cinema Officer, Defence Service Cinema H. O. Ambala Sub-Area Ambala Cantt.

BEFORE SHRI M.C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD.

Reference No. 250 of 1981.

between

SHRI BABOO RAM GOILA WORKMAN AND THE MANAGEMENT OF M/S. CINEMA
OFFICER DEFENCE SERVICE CINEMA H. Q. AMBALA SUB AREA AMBALA CANTT

Present:

Shri Rajeshwar, Nath for the workman.
Nemo, for the management.

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Baboo Ram Goila and the management of M/s Cinema Officer Defence Service Cinema, H. Q. Ambala Sub-Area Ambala Cantt. by order No. ID/Amb/78/81/36347, dated 5th August, 1981, to this Tribunal for adjudication, in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Baboo Ram Goila was justified and in order If so, what relief is he entitled?

Notices of the reference were sent to the parties who appeared and filed their pleadings. The following issues were framed by order dated 14th July, 1982:—

- 1 Whether the management is not an industry as defined under the Industrial Disputes Act ?
- (2) Whether the termination of service of Shri Baboo Ram Goila was justified and in order ? If so, what relief is he entitled ?
- (3) Relief.
- (4) Whether the Tribunal has no jurisdiction ?

And the case was fixed for the evidence of the Management. But on the date fixed, none was present on behalf of the management. Therefore, the case was fixed for *ex-parte* evidence of the workman. The workman in evidence examined himself and deposed that he joined in the respondent management at Rs 300 per month. His appointment letter was Ex. M-1. Later on the management increased his wages upto Rs 400 per month from January, 1976. He remained continuous service from 1st October, 1975 to July, 1980. The management had terminated service on 7th June, 1980 after giving one month notice Ex. W-2. He used to attend the duty notice period. He was not paid any retrenchment compensation. The management had appointed another accountant. after his termination.

Believing the *ex parte* statement of the workman, I find that the order of termination was wrongful. Therefore I give my award that the workman is entitled to his reinstatement with full back wages.

Dated, the 30th August, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 930, dated the 30th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I.D. Act, 1947

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 9(1)82-PV-6Lab/9248.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of Superintending Engineer, O. P. Circle H. S. E. B. Panipat.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 150/1982

between

SHRI ZILE SINGH WORKMAN AND THE MANAGEMENT OF SUPERINTENDING ENGINEER, O. P. CIRCLE H. S. E. B. PANIPAT

Present :—

Shri Ram Kumar for the management
Nemo, for the workman

AWARD

The State Government of Haryana referred the following dispute between the workman Shri Zile Singh and the management of Superintending Engineer O. P. Circle, H. S. E. B. Panipat, by order No. ID/KNL/123/81/20724, dated 3rd May, 1982 to this Tribunal, for adjudication in exercise of powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Zile Singh was justified and in order? If not, to what relief is he entitled?

Notices of the reference were sent to the parties. The management appeared but the workman could not be served as the inmates of his house reported that the workman was doing work at some other place. They did not give his address to the postman. As per report of the postman on the notice, it was useless to send the notice on the same address. Therefore, the case was dismissed for non-prosecution.

Dated, the 30th August, 1982.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endst. No. 944, dated 30th August, 1982.

Forwarded (four copies) to the Secretary to Government, Haryana, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.